

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

THE ESTATE OF YARON UNGAR, et al.

vs.

C.A. No. 00 - 105L

THE PALESTINIAN AUTHORITY, et al.

**AFFIDAVIT OF COUNSEL FEES**

As indicated by the Court in its decision of May 14, 2003, attorneys fees are warranted for the defendants' refusal to comply with a series of court orders and the rules of procedure concerning several forms of discovery such as depositions, interrogatories, a request for production of documents, and a request for admissions. These requests were initially filed in January of 2002. Discovery was stayed by the Court in June of 2002 pending the outcome of defendants' motion to dismiss the amended complaint.

The stay ended on November 4, 2002 when Judge Lagueux issued a decision denying defendants' motion to dismiss the amended complaint.

During a December 2, 2002 telephone conference with Magistrate Judge Martin, the defendants were reminded that their obligation to comply with the discovery requests began to run on November 4, 2002 as the stay terminated with the denial of the motion to dismiss.

On December 12, 2002 the Court heard plaintiffs' motion to compel discovery. The motion was granted subject to specific conditions. After a month of negotiating the exact language of the order with defendants, plaintiffs presented a proposed order which was entered by the Court on January 14, 2003. (docket #99)

220

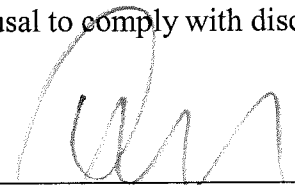
On May 14, 2003, the Court denied defendants' further attempt to circumvent the discovery process by denying their motion for protective order. (docket #162)

Also, on May 14, 2003, in response to plaintiffs' motion for entry of default judgment for failure to comply with discovery, the Court gave defendants another opportunity to comply. (docket #158) Defendants responded to the order by repeated representations to the court and to counsel that they would not comply with discovery and, in fact, were instructed by their clients not to comply with discovery.

The attached is a statement of attorneys fees incurred from November 2002 through the present for work attributable to defendants' failure to respond to discovery requests.

As a result of defendants' intransigence and refusal to comply with court orders and rules of procedure, plaintiffs incurred counsel fees of \$11,925. Said fees were incurred exclusively with reference to obtaining discovery following the termination of the discovery stay of November 4, 2002. (see attached)

I hereby affirm that the attached statement indicates the fees incurred by plaintiffs' attorneys as a result of the PLO and PA's refusal to comply with discovery requests.



---


David J. Strachman #4404  
McIntyre, Tate, Lynch & Holt  
321 South Main Street, Ste. 400  
Providence, RI 02903  
(401) 351-7700  
(401) 331-6095 (fax)

CERTIFICATION

I hereby certify that on the 18<sup>th</sup> day of August, 2003 I mailed a true copy of the within to:

Ramsey Clark  
Lawrence W. Schilling  
36 East 12<sup>th</sup> Street  
New York, NY 10003

Deming E. Sherman  
EDWARDS & ANGELL, LLP  
2800 Bank Boston Plaza  
Providence, RI 02903



---

STATEMENT OF FEES IN CONNECTION WITH  
DEFENDANTS' REFUSAL TO PROVIDE DISCOVERY

11/21/02	Receive and review fax from Attorney Clark concerning request to postpone discovery hearing.	0.10
12/02/02	Review file regarding discovery orders. Telephone conference with Magistrate Judge David L. Martin and opposing counsel. Prepare order.	0.75
12/11/02	Prepare for hearing concerning motion to compel discovery. Review court file.	0.50
12/12/02	Prepare for hearing. Appearance in Federal Court before Magistrate Judge Martin regarding motion to compel.	1.00
12/14/02	Receive and review correspondence from Magistrate Judge David L. Martin.	0.10
12/16/02	Prepare order regarding motion to compel discovery and fax to opposing counsel.	0.25
12/26/02	Receive and review proposed counter order concerning motion to compel and correspondence from Attorney Schilling.	0.20
12/27/02	Prepare revised order concerning motion to compel. Prepare correspondence to Court.	0.20
01/02/03	Receive and review fax from Attorney Schilling concerning discovery order.	0.20
01/03/03	Prepare revised discovery order and fax to Attorney Schilling.	0.25
01/06/03	Receive and review fax from Attorney Schilling concerning motion to grant order concerning motion to compel discovery.	0.10
01/13/03	Prepare and deliver correspondence to Magistrate Judge David L. Martin concerning discovery orders (defendants and plaintiffs' discovery orders).	0.10
01/29/03	Receive and review defendants' motion to reconsider order of January 14, 2003.	1.00
01/30/03	Prepare new deposition notices (8).	1.00

02/04/03	Receive and review exhibits to defendants' memorandum in support of motion for reconsideration of discovery order.	0.50
02/07/03	Prepare motion to enter default judgment against defendants pursuant to Rule 37 and memorandum in support thereof.	6.00
02/10/03	Revise memorandum to enter default judgment pursuant to Rule 37. Prepare plaintiffs' response to defendants' motion to reconsider discovery order.	3.00
02/11/03	Finalize memorandum to enter default judgment pursuant to Rule 37. Prepare plaintiffs' response to defendants' motion to reconsider discovery order.	3.00
02/17/03	Finalize plaintiffs' response to defendants' motion to reconsider discovery order.	1.00
03/04/03	Prepare correspondence and fax to Attorneys Clark, Schilling and Sherman concerning appearances at depositions.	0.20
03/05/03	Receive and review defendants' memorandum in opposition to Rule 37(b)(2) motion.	0.20
03/05/03	Prepare reply to defendants' opposition to Rule 37(b)(2) motion.	1.50
03/06/03	Finalize reply to defendants' opposition to Rule 37(b)(2) motion.	1.00
03/12/03	Receive and review defendants' motion for protective order.	0.50
03/26/03	Research and prepare memorandum in opposition to defendants' motion for protective order.	1.00
03/27/03	Research and prepare memorandum in opposition to defendants' motion for protective order.	2.00
03/28/03	Receive and review correspondence from Attorney Schilling and prepare response.	0.50
03/28/03	Research and prepare memorandum in opposition to defendants' motion for protective order.	1.50

03/30/03	Research and prepare memorandum in opposition to defendants' motion for protective order. Prepare for hearing.	2.00
03/31/03	Research and prepare memorandum in opposition to defendants' motion for protective order.	1.00
04/01/03	Prepare for hearing. Appearance in Federal Court.	1.00
04/07/03	Research and prepare plaintiffs' supplemental memorandum in opposition to defendants' motion for protective order.	1.00
04/07/03	Research and draft plaintiffs' motion and memorandum for default judgment regarding refusal to submit to depositions.	1.00
04/08/03	Finalize plaintiffs' supplemental memorandum in opposition to defendants' motion for protective order.	1.00
04/08/03	Research and draft plaintiffs' motion and memorandum for default judgment regarding refusal to submit to depositions.	1.00
04/09/03	Finalize and file plaintiffs' motion and memorandum for default judgment regarding refusal to submit to depositions.	1.25
04/22/03	Prepare correspondence to Judge Lagueux concerning scheduling of motions for default judgment concerning discovery.	0.10
04/28/03	Receive and review defendants' memorandum in support of defendants' objection to motion for default judgment with respect to depositions.	0.50
05/13/03	Prepare for hearing regarding motion for protective order, motion for default judgment concerning refusal to submit to depositions and motion for default judgment pursuant to Rule 37(b)(2).	2.00
05/14/03	Prepare for hearing. Appearance in Federal Court.	2.00
05/15/03	Receive and review Magistrate Judge Martin's order regarding motions for default judgment.	0.10

05/21/03	Review transcript of May 14, 2003 hearing. Prepare and file order.	0.40
06/12/03	Review defendants' memorandum appealing Magistrate Judge David Martin's denial of motion for protective order.	0.10
06/13/03	Receive and review correspondence from Attorney Clark concerning discovery order (letter mistakenly dated January 6, 2003).	0.10
07/10/03	Prepare memorandum in response to defendants' appeal from May 14, 2003 order continuing hearing on motion for default judgment.	3.00
07/11/00	Receive and review defendants' memorandum in support of their motion to continue July 14, 2003 hearing on default judgment motions.	0.20
07/11/03	Prepare for hearing. Attention to fax. Review defendants' memorandum and motion regarding continuance.	2.00
7/13/03	Prepare for hearing on default judgment motions.	1.25
07/14/03	Prepare for hearing. Appearance in Federal Court before Magistrate Judge Martin.	2.00
07/17/03	Prepare order concerning July 14, 2003 hearing.	0.10
07/29/03	Prepare for hearing.	1.00
07/30/03	Appearance before Judge Lagueux regarding defendants' appeal of May 14, 2003 order, May 27, 2003 order, April 18, 2003 order.	1.00
07/30/03	Prepare orders.	0.25

**TOTAL HOURS** 53 **at \$225 per hour = \$** 11,925

referred 8/22

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLANDTHE ESTATE OF YARON UNGAR,  
et al

v.

THE PALESTINIAN AUTHORITY,  
et al

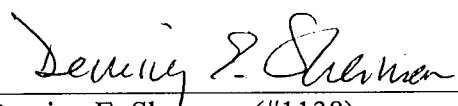
C.A. No. 00-105L

**PALESTINIAN DEFENDANTS'**  
**MOTION TO EXCEED PAGE LIMIT FOR EXHIBITS**

Defendants the Palestinian Authority ("PA") and the Palestine Liberation Organization ("PLO") move to exceed the five-page limit for exhibits to their Objection to Plaintiffs' Motion for Judgment by Default Pursuant to Fed.R.Civ.P. 55(b)(2).

A Memorandum is filed herewith.

Dated: August 20, 2003

  
Deming E. Sherman (#1138)  
Annemarie M. Carney (#3980)  
EDWARDS & ANGELL, LLP  
2800 Financial Plaza  
Providence, Rhode Island 02903  
401-274-9200  
401-276-6611 (FAX)

Ramsey Clark  
Lawrence W. Schilling  
36 East 12th Street  
New York, NY 10003  
212-475-3232  
212-979-1583 (FAX)

Attorneys for Defendants  
The Palestinian Authority and  
The PLO

*Granted*  
*8-22-03*  
*David L. Martin*  
*USMAJ*

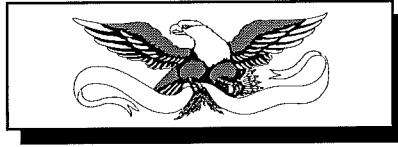
*224*  
*2780*



CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of August, 2003, a copy of the within Palestinian Defendants' Motion to Exceed Page Limit for Exhibits was faxed and mailed to David J. Strachman, Esq., McIntyre, Tate, Lynch and Holt, Suite 400, 321 South Main Street, Providence, RI 02903.

Deming J. Sherman



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND  
**CLERK'S MINUTES**

August 22, 2003

CA 00-105L

TITLE: ESTATE OF UNGAR, ET AL v THE PALESTINIAN AUTHORITY, ET AL

MAGISTRATE JUDGE: David L. Martin

COURTROOM CLERK: Martha Saucier

---

**COUNSEL PRESENT:**

Plaintiff: David Strachman

Defendant: Ramsey Clark  
Lawrence Schilling  
Deming Sherman

\*\*\*\*\*

**Plaintiff's Motion for Attorney's Fees**

**Plaintiffs' Motion for Judgment by Default Pursuant to Fed.R.Civ.P. 55(b)(2) against The  
Palestinian Authority and The Palestinian Liberation Organization**

All counsel of record present. Court gives travel of the case. Court grants defendants' motion to exceed page limits as to exhibits. Mr. Strachman argues motion for judgment by default. Court will allow plaintiffs' up to and including 8/29/03 to file a brief reply to defendants' objection to the motion for judgment by default. Court will allow the defendants up to and including 9/5/03 to file a brief reply to plaintiffs' reply. Defendants

229

**state objections to plaintiffs' motion for attorneys fees. Court takes matter under advisement and will issue a Report and Recommendation.**